F.M.S. REPORTS.

[APPELLATE CIVIL JURISDICTION]

MILLS, J.

January 7, 1933.

VELLUPILLAY.....Appellant.

vs.

THE REGISTRAR OF TITLES, NEGRI SEMBILAN.....Respondent.

[NEGRI SEMBILAN CIVIL APPEAL No. 20 of 1932]

Registration of titles—charge—issue document of title with chargee—second charge—presentation of—powers of Registrar to require delivery of issue document of title—Land Code, 1926, ss. 87 (i), 91, 230 (b), 237, 240.

The proprietor of certain lands executed a charge in favour of a bank. The relevant issue document of title was in the bank's possession. Subsequently the proprietor charged the lands in the appellant's favour. On presentation of the Memorandum of Charge, the appellant requested the Registrar of Titles to call upon the Bank to deliver the issue document of title, in order that a memorial of the second charge might be made thereon. The Registrar refused to comply with the request and rejected the Memorandum of Charge on the ground that the issue document of title had not been presented. Against the Registrar's decision, the appellant appealed to the Court under Section 237 of the Land Code.

Held, that the Registrar has power under Section 230 (b) to require the Bank to produce the issue document of title.

Jeff for the Appellant.

MILLS, J.—The facts in this case are as follows:—

The proprietor of certain lands executed a charge in favour of a Bank: the Bank retained the issue document of title. At a later date the proprietor executed a second charge in favour of Vellupillay, the present appellant.

When presenting the memorandum of charge under section 129 of "The Land Code, 1926," Vellupillay requested the Registrar of Titles to require the Bank under section 230 (b) of the Code to deliver the issue document of title, in order that a memorial of the second charge might be made thereon, as laid down in section 91.

The Registrar refused to comply with the request, on the ground that he had no jurisdiction: and as the issue document of title had not been presented, the Registrar rejected the memorandum of charge under section 87 (i).

Vellupillay being dissatisfied with the Registrar's decision, now applies to the Court under section 237.

The question for determination is whether or not the Registrar has power under section 230 (b) to require the Bank to deliver the issue document of title.

The Registrar formed the opinion that he had no such power: he considered that in section 230, paragraph (b) must be read in connection with paragraph (e), and that the power of supplying memorials was limited to the supplying of memorials which had in error been omitted to be made on the issue document of title.

I am unable to find any indication that the legislature intended paragraph (b) to be read in connection with paragraph (e), and I therefore hold that the meaning of paragraph (b) ought to be ascertained by considering the provisions of that paragraph alone.

The opening sentence of that paragraph gives the Registrar an unqualified power of calling for the issue document of title. It is argued, however, that this power must be regarded as limited by the concluding sentence of the paragraph, "and the proper registering authority after inspecting the same and where necessary correcting any error or supplying any memorial required to be made thereon shall return the same to the person who delivered it."

In my judgment, the unqualified power is not to be construed as limited by the provisions of an instruction directing the Registrar what to do with the document when he has finished with it.

Even if it were to be so limited, I can find no sufficient reason for holding that the memorials to be supplied must be restricted to memorials in error omitted to be made on the document. If it were the intention of the Enactment that the memorials to be supplied must be so restricted, I think the Enactment would have contained the words "in error omitted to be made thereon," as indeed paragraph (e) does contain these words.

I hold that the Registrar has power under section 230 (b) to require the Bank to produce the issue document of title in order that the memorial of the second charge may be made thereon.

The appeal is allowed.

By virtue of the powers conferred on the Court by section 240, I order the Registrar to require the Bank, under section 230 (b), to deliver the issue document of title, and I order the Registrar to register the second charge in question as from the 30th day of September, 1932, and to make the proper memorial on the issue document of title.

Order accordingly.

[APPELLATE CRIMINAL JURISDICTION]

CUSSEN, J.

December 21, 1937.

PUBLIC PROSECUTOR vs. LEE YEE HENG.

[SELANGOR MAGISTRATE'S CRIMINAL APPEAL No. 73 of 1937]

Criminal Procedure Code, s. 173 (g)—submitting no case to meet—duty of Magistrate.

It is contrary to the provisions of the Criminal Procedure Code for a Magistrate, if at the close of the Prosecution case he in fact considers that only a highly sus-